

4131E-904914

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of : Christopher Tate
Serial No. : 09/737,050
Filed : December 14, 2000
For : Communications System and Method
Therefor
Examiner : James R Sheleheda
Art Unit : 2623
Customer number : 23644
Confirmation No. : 7139

REPLY BRIEF

Honorable Director of Patents and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The following is Applicant's reply to the Examiner's Answer mailed April 10,
2008

REMARKS

Section 9 of the Examiner's Answer.

There appears to be nothing new in the grounds of rejection previously applied in the procedure.

Section 10 of the Examiner's Answer – "Response to Argument".

In part (a) of section 10 of the Examiner's Answer, the Examiner makes reference to column 8, lines 55 to 64 and column 34, lines 30 to 59 of Hendricks in an attempt to combine yet again two of the embodiments of Hendricks. This is not a new argument – see page 12 of the Appeal Brief.

Applicant accepts that Hendricks, like Banker, teaches an embodiment comprising a broadcast television system for providing NVOD services wherein a plurality of data streams consisting of the same program are transmitted continuously and sequentially with each data stream offset with respect to a preceding one by a single offset value. However, precisely the same grounds of traversal as presented in the Appeal Brief at pages 8 to 12 with respect to the combination of Hendricks (modified by Hodge) and Banker applies to this combination of embodiments taught by Hendricks.

The Examiner makes an issue of the term "indicated" as used in the claims with the inference that the single offset value does not somehow comprise a part of the control data but is merely "indicated" by it. However, one of ordinary skill in the art would unambiguously understand that a single offset value comprises a simple value and that, as such, an indication of it amounts to it being comprised in the control data. Thus, the Examiner's arguments based on what is inferred by the term "indicated" is not material to the issues at hand.

Furthermore, one cannot reasonably argue, as the Examiner attempts to do, that the start times of programs within a program package somehow comprise offset values. In a program package, each program in the sequence of programs forming the package has allotted to it a start time based on a clock. This start time will be presented to consumers not as some offset value with respect to a start time of say a first scheduled program in the program package, but as a start time relative to the time of day (clock) in a manner that makes sense to the subscriber. Bear in mind that, in the systems of Hendricks, a subscriber is provided with program menus which display data relating to the schedule of programs prior to their being shown. The start times of a sequence of programs in a program schedule does not comprise a series of offsets values, because the start of each program is scheduled relative to a clock (time of day) rather than being started according to an offset value applied to a start time of one of the programs in the schedule.

Even if one accepts the contention, which Applicant does not, that the different start times of programs within a program schedule as taught by Hendricks provide an indication of the offsets between them, it follows that all of the programs would have to be of the exact same duration to accidentally arrive at a single offset value as claimed. There is no suggestion whatsoever in Hendricks that this is contemplated in connection with program packages.

Also, in Hendricks, the programs within a program package are not broadcast as a plurality of onward data streams but as a single data stream for that program package.

In part (b) of section 10 of the Examiner's Answer, the Examiner makes reference to Hendricks disclosing offset values and asserts that "Hendricks clearly indicates offset values, by transmitting start times (column 8, lines 30 - 43) which are offset by some defined value (column 34, lines 30 - 59)". This is illogical. The Examiner firstly contends that the offset values he contends are taught by Hendricks are derived from the start times of programs within a program package (the embodiment at column 8

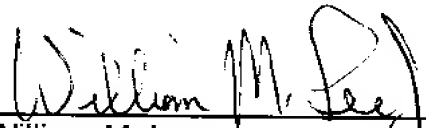
of Hendricks) and then asserts that these start times are offset by some defined value derived from the NVOD embodiment of Hendricks described at column 34. But the offset value of the NVOD embodiment is applied to a plurality of data streams consisting of the same program and not to programs within a program package. The Examiner's argument is in fact the same argument relied on in part (a) of section 10 of the Examiner's Answer and leads again to the conundrum discussed on page 12 of the Appeal Brief. The Examiner appears to be attempting to argue that one of ordinary skill would contemplate using a single offset value to broadcast a plurality of program packages as taught by Hendricks, but Hendricks makes no such suggestion in respect of the broadcast of program packages and certainly no suggestion that a distribution server is arranged to apply such a single offset value to program packages. In this regard, Applicant refers again to the discussion at pages 8 to 12 of the Appeal Brief.

Parts (c) to (e) of section 10 of the Examiner's Answer provides no new arguments which have not already been addressed in the Appeal Brief.

Reversal of the Examiner is therefore in order and is solicited.

June 10, 2008

Respectfully submitted,



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